

REMARKS

Applicant thanks the Examiner for the courtesy of providing it with the opportunity to further reply to the earlier Office Action.

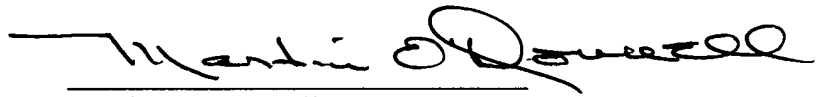
As stated in our earlier reply, the present application is entitled to the filing date of its earliest predecessor, i.e., May 20, 1994. Thus, we believe that the Yang et al. reference is not in fact prior art under 35 U.S.C. §102(b) and thus need not be addressed further. However, on reflection, we have decided to amend the claims to focus on the concave nature of applicant's disk, with its concomitant benefits of enhanced surface area as a result of the concavity. This is described in detail in the specification at p. 7, l. 18ff. Accordingly, we have amended claims 1 and 11 to assert that at least one of the faces of the disk is formed concavely, and have added new claim 17.

The Examiner has suggested that if the bioartificial pancreas of Yang et al. is of the right material and the right thickness then it will inherently form concave surfaces. There is nothing in Yang to suggest this: "The mere fact that the prior art could be so modified [in the manner suggested by the PTO Board of Appeals] would not make the modification obvious unless the prior art suggested the desirability of the modifications." In re Gordon, 221 USPQ 1125, 1127 (Fed. Cir. 1984). Thus, even if Yang were prior art (and, we repeat, it is not) it would fail to suggest the claimed invention.

Please charge any additional fee occasioned by this paper to our Deposit Account

No. 03-1237.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Martin J. O'Donnell", written over a horizontal line.

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